

11 U.S.C. § 110(i)

In re Edwin L. and Susan Stacy, Case No. 395-33618-elp7 / Dist.
Court Case No. 96-33-MA

4/3/96

Judge Marsh

Unpublished

Judge Marsh adopted the findings of the Bankruptcy Court
(Judge Perris - P96-7(10) dated 3/11/96) regarding Robert Tank's
violations of 11 U.S.C. § 110(i), and awarded damages and
attorney fees.

P96-12(4)

FILED

95 APR -3 PM 12:43

CLERK, U.S. BANKRUPTCY COURT
DISTRICT OF OREGON

APR - 3 1996

LODGED _____ RECD _____
PAID _____ DOCKETED *W*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

In Re:)
EDWIN L. STACY and SUSAN STACY,) Misc. No. 96-33-MA
Debtors.) Bankr. No. 395-33618-elp7
JUDGMENT ORDER

MARSH, Judge.

In consideration of the findings of fact and conclusions of law made by the U.S. Bankruptcy Court in its opinion dated March 11, 1996 regarding the matter of Robert Tank which has been certified to this court pursuant to 11 U.S.C. § 110(i) on the motions of Edward C. Hostmann, the Chapter 7 trustee for the Stacy bankruptcy estate, and after notice and a hearing in open court on March 27, 1996, it is HEREBY ORDERED AND ADJUDGED pursuant to 11 U.S.C. § 110(i) that:

(1) the findings of fact and conclusions of law contained in the opinion of the U.S. Bankruptcy Court dated March 11, 1996 are ADOPTED by this court;

(2) JUDGMENT Two Thousand Dollars (\$2,000) is hereby rendered in favor of Edwin and Susan Stacy and against Robert Tank,

1 - ORDER

Certified to be a true and correct
copy of original filed in my office.

Dated: 4/10/96
Donald M. Cinnamon, Clerk

David C. Marsh, Deputy

22

1 dba Legal Alternatives, dba Law Alternatives as to the Stacys'
2 bankruptcy case;

3 The court finds no convincing or non-speculative evidence
4 of actual damages and rejects the Stacys claim of entitlement to
5 non-economic damages. The court finds no support in either the
6 legislative history or case law for the Stacys' claim of
7 entitlement to damages for emotional distress. The court further
8 rejects the Stacys' claim for filing fees and preparation fees
9 since the \$2,000 penalty is awarded in lieu of such expenses.

10 The court further declines to impose a separate \$2,0000
11 penalty payable to the estate arising from Susan Stacy's first
12 bankruptcy filing. Although the violations found by the bankruptcy
13 court derive from two different bankruptcy petitions, the petitions
14 were related and part of a single, ongoing proceeding such that the
15 imposition of a separate penalty would constitute inappropriate
16 double counting. Further, the violations were addressed in a
17 single motion filed by the trustee and were certified to this court
18 as a single action.

19 (3) JUDGMENT in the sum of One Thousand Dollars (\$1,000) is
20 hereby rendered in favor of Edward C. Hostmann, individually, the
21 movant/trustee of the Stacy estate and against Robert Tank, dba
22 Legal Alternatives, dba Law Alternatives.

23 (4) In further consideration of the application of Peter C.
24 McKittrick, counsel for the moving parties herein, attorney's fees
25 in the amount of \$3011.15 and costs in the amount of \$94.35 are
26 APPROVED and JUDGMENT in these sums is hereby rendered in favor of
27 Peter C. McKittrick and against Robert Tank, dba Legal
28 Alternatives, dba Law Alternatives. Having reviewed the affidavit

1 of counsel, the court has reduced the fee request by amounts
2 counsel concedes are not directly related to the prosecution of
3 this action. The court has further reduced time entries by one-
4 half for work with the U.S. trustee on the separate injunction
5 proceeding against Mr. Tank. In addition, the court found legal
6 research time excessive in light of the absence of relevant case
7 law or legislative history and thus, has reduced the fee award for
8 time spent on research tasks by one-half.

9 IT IS FURTHER ORDERED that the docketing of this order
10 shall constitute the entry of judgment as contemplated in Fed. R.
11 Civ. P. 58;

12 The statutory damages awarded herein are in addition to and
13 not in lieu of the fines and injunctive penalties directed by the
14 U.S. Bankruptcy Court. This court will retain jurisdiction to the
15 extent necessary to enforce the provisions of this judgment order.

16 IT IS SO ORDERED.

17 DATED this 2 day of April, 1996.

18 Malcolm F. Marsh
19 Malcolm F. Marsh
20 United States District Judge
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